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Coventry and Warwickshire**
NHS Trust

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Our ref: FOI – 5149

Date: 28 February 2019

Direct Line: 024 76968771
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By email only

Dear

We write further to your request for information under the Freedom of Information Act dated 14th January 2019. We have set out your request, together with our response below.

The Off-payroll legislation was introduced in Chapter 10 of the Income Tax (Earnings and Pensions) Act 2003, with the new legislation going live from April 6th 2017. This new legislation overrode, in the public sector, the existing Intermediaries Legislation (Chapter 8, ITEPA).

The new legislation is here:

<https://www.legislation.gov.uk/ukpga/2017/10/schedule/1/part/2>

One of the key differences between the chapter 8 and chapter 10 is that the public authority is required to decide whether the off-payroll working rules (Chapter 10) apply based on whether the conditions have been met in section 61M(1)(d).

61M Engagements to which Chapter applies

(1) Sections 61N to 61R apply where—

(a) an individual (“the worker”) personally performs, or is under an obligation personally to perform, services for another person (“the client”), (b) the client is a public authority, (c) the services are provided not under a contract directly between the client and the worker but under arrangements involving a third party (“the intermediary”), and (d) the circumstances are such that— (i) if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client, or (ii) the worker is an office-holder who holds that office under the client and the services relate to the office.

This requires the public authority to test whether the worker would be considered an employee based on employment status case law.

These assessments would have been completed by you with each assessment receiving its own determination.



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Please can you provide:

A monthly breakdown, from April 2017 onwards of the number of assessments conducted by you, together with the number of assessments that are considered to be “inside IR35” (i.e. 61M(1)(d) applies) and the number that are “outside IR35” (i.e. 61M(1)(d) does not apply)

Please find attached

As we have provided the information that we do hold your request is now closed. We trust that this is satisfactory but if you are dissatisfied with the way that it has been handled you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: Geoff Stokes, Director of Corporate Affairs, UHCW, Clifford Bridge Road, Coventry CV2 2DX.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

Andrea Phillips
FOI & Access to Health Records Manager